

RKE
Tucson, AZ

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

G&E REAL ESTATE MANAGEMENT
SERVICES, INC. d/b/a NEWMARK
GRUBB KNIGHT FRANK

and

Case 28-CA-178893

PATRICK THURMAN

NOTICE TO SHOW CAUSE

On November 8, 2019, Administrative Law Judge Robert A. Ringler issued a supplemental decision concluding, in part, that the Respondent violated Section 8(a)(1) of the National Labor Relations Act by maintaining the Use of Company Information Technology Policy. The judge applied the standard set forth in *Purple Communications, Inc.*, 361 NLRB 1050 (2014), for determining the lawfulness of an employer's rule restricting employee use of a company's email system. Recently, the Board overruled *Purple Communications* and announced a new standard that applies retroactively to all pending cases. *Caesars Entertainment d/b/a Rio All-Suites Hotel & Casino*, 368 NLRB No. 143, slip op. at 8-9 (2019). In that decision, the Board held, in relevant part, that "an employer does not violate the Act by restricting the nonbusiness use of its IT resources *absent proof that employees would otherwise be deprived of any reasonable means of communicating with each other.*" *Id.*, slip op. at 8 (emphasis added). The parties have not had an opportunity to address whether this exception to the rule of *Caesars Entertainment* applies to the facts of this case. Accordingly, having duly considered the matter,

NOTICE IS GIVEN that cause be shown, in writing, filed with the Board in Washington, D.C., on or before April 29, 2020 (with affidavit of service on the parties to this proceeding), why the complaint allegation involving the maintenance of the Use of Company Information Technology Policy should not be severed and remanded to the administrative law judge for further proceedings consistent with the Board's decision in *Caesars Entertainment*, including reopening the record if necessary. Any response should address whether a remand would affect the Board's ability to resolve the remaining complaint allegations, including whether those allegations should be severed and retained or instead included in the remand. Any briefs or statements in support of the response shall be filed on the same date.

Dated, Washington, D.C., April 15, 2020.

By direction of the Board:

Roxanne L. Rothschild
Executive Secretary